

IN THE HIGH COURT OF PUNJAB & HARYANA
CHANDIGARH

Criminal Revn. No.57 OF 1995
Date of Decision: December 05, 2007

SAJJAN SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE A.N.JINDAL

Present: Mr. H.S.Sullar, Advocate,
for the petitioner.

Mr. Satish Bhanot, Sr. DAG, Punjab.

A.N.JINDAL, J

This revision petition is directed against the judgment dated 20.01.1995 passed by Additional Sessions Judge, Sangrur dismissing the appeal of the petitioner against the order dated 24.10.1989 convicting the accused petitioner(hereinafter referred to as the petitioner) under Section 409 IPC and sentencing him to undergo RI for 2 years and to pay a fine of Rs.2000/-, however, this sentence was reduced by the trial Court from two years to one year without any change in the sentence of fine.

The allegations as culled out from the record against the petitioner are that he was a Junior Engineer at Punjab State Electricity Board, Sub Division, Sherpur. In the year 1987, the Executive Engineer, PSEB reported to the

SSP, Sangrur vide memo Exhibit PF that the petitioner had lifted 9 nos. transformers from the area of his Sub-Division and loaded them in the truck belonging to R.E.C Sub Division Sangrur but in violation of the direction issued to him to deposit the same in the workshop of the Board, Doraha for repairs. He criminally misappropriated these transformers in connivance with Mohinder Singh, J.E.

On the aforesaid complaint, Sat Pal Vigilance Inspector of the board conducted preliminary enquiry indicting both Sajjan Singh and Mohinder Singh of misappropriating 9 transformers. Consequently, Executive Engineer recommended for registration of the case against them. Ultimately, FIR no. 112 dated 08.12.87 at Police Station, Sherpur was registered against both of them which was investigated.

Consequently, challan was presented and charge was framed against both of them. At trial the prosecution examined as many as 11 witnesses namely Baldev Singh(PW1), Harkishan Singh(PW2), Sat Pal Singh (PW3), Sukhdev Singh(PW4), Gurdev Singh(PW5), Bhupinder Singh(PW6), Suresh Kumar(PW7), Gurmeet Singh(PW8), Jit Singh(PW9), Jaswant Singh Grewal, EE(PW10), SI Sat Paul Singh(PW11).

When examined under Section 313 of the Code of Criminal Procedure both the accused denied the circumstances appearing against them and pleaded their false implication in the case. In defence, he examined Gopal

Krishan Sharma, Hand writing and finger print expert (DW1) and Balwinder Singh(DW2) and closed the defence evidence.

Ultimately the trial ended in conviction and the appeal was also dismissed. Hence this petition.

Arguments Heard.

Records Perused.

There is no denying a fact that the petitioner being posted as Junior Engineer in PSEB was a public servant and he was posted as such at Sherpur Sub Division at the relevant time. There is no denial of the fact that he was incharge of the area where transformers were working Baldev Singh, AEE(PW1) while appearing in the witness box stated that he joined the Sherpur Sub Division of the Electricity Board on 09.04.1987. While confirming the posting of the petitioner at Sherpur, he further, stated that he was having two feeders of 11 KV under his charge and the petitioner was duty bound to maintain the transmission lines in order to maintain the local distribution system and to keep the transformers in working condition. In case of the damage of transformers, he was duty bound to replace them and to get the same repaired.

He further testified that after he joined the Sub Division he found that a large number of damaged transformers were lying in the circle and some transformers were lying in the field and some were lying in the Grid Sub Station. His further request is to the effect that direction were issued to JEs to return the damaged transformers and

send the same to the workshop at Doraha. Again there is evidence that on 24.04.1987, petitioner deposited 9 transformers with the PSEB workshop at Doraha through Truck No. PUP 9072 and no transformer was deposited on 27.04.1987. Some evidence of fabrication has also come forth from the testimony of Baldev Singh that on 26.04.1987 he obtained signatures of Baldev Singh on Store Return Warrant (SRW) and told him that he will obtain the truck and will collect the damaged transformers from the field and deliver the same on 27.04.87. The receipt Exhibit PC brought on record further transpires that 9 more transformers were deposited in the workshop but the said receipt seems to be forged one as it is clear from the reply Ex. PB received from the workshop that only 9 No. transformers were deposited by the petitioner on 24.04.1987 and no transformer was delivered by him on 27.04.87. The receipt depicts that 9 No. transformers were taken through truck PUB No. 4917 relating to RC Sub Division Sangrur but the letter No. 1897 dated 28.07.1987 received from the AEE, Transformer Repair Workshop Doraha that no such transformers were received.

It may further be submitted that Sukhdev Singh, Sub Divisional officer, PSEB, Sub Division Sherwanikot PW4 produced the relevant entry of the Log Book relating to truck no. PUB 4917 which depicts that truck was never sent to Daroha on 27.04.1987. The receipt Ex. PC has been fabricated in order to make a false defence and hoodwink the department by taking shield of the Ex. PC

showing that 9 transformers were taken by him to the workshop on 27.04.1987 which is factually incorrect.

Thus the fact remains that out of the 14 transformers only 9 transformers were deposited with the workshop on 24.04.87 and he misappropriated the remaining 5 transformers. Though, through a disclosure statement made by the petitioner the remaining 5 transformers were recovered from him but it does not save him from the criminal liability for the offence under Section 409 which he committed.

However, keeping in view, the fact that the remaining 5 transformers were got recovered from the persuasion of the accused in pursuance of the disclosure statement made later on, a lenient view could be taken.

As an upshot of the above discussion finding no merit in the revision petition, the same is dismissed with the modification in the sentence to 9 months without alteration in the sentence of fine.

Copy of the judgment be sent to Chief Judicial Magistrate, Sangrur for compliance.

December 05, 2007
Ruchika

(A.N.JINDAL)
JUDGE

To be referred to reporter: Yes/No